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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,993	08/18/2006	Malcolm David Boosey	37261P122	2472

7590 10/14/2009
Blakely Sokolof Taylor & Zafman
12400 Wilshire Boulevard 7th Floor
Los Angeles, CA 90025

EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3673

MAIL DATE	DELIVERY MODE
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10/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/589,993	Applicant(s) BOOSEY ET AL.	
	Examiner CARLOS LUGO	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,7-14,19,21-27 and 29-42 is/are pending in the application.
- 4a) Of the above claim(s) 34-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,7-14,19,21-27,29-33,42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on June 16, 2009.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 21, 22 and 34-42 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 21, 22 and new claim 42 requires a latching device that comprises a strike, a movable latch member, a biasing device to bias the latch member, magnets at the strike and the latch member and an actuator "mechanically linkage" to the movable magnet.

First, the device as claimed is not capable of performing the unlatching or latching functions of the device.

As clearly seen in Figures 6a and 6b, when the user push button 26, the button will move inwardly. This movement will move disk 34 so that one of the spigots acts on the locking bolt 17 so as to move it inwardly and away from the strike.

At the same time, the disk 34 has another spigot that will move slider 31 to push the movable magnet 33 until it engage a recess 37a so that there will not be any magnetically attraction between the magnets. At this time, spring 23 will bias the locking member 17 into the retracted position and unlatch has been accomplished.

Therefore, in order to the latching device can perform the desired latching and unlatching functions, the disk having two spigots, one interacting with the locking bolt and the other interacting with a slider member that will move the movable magnet, is essential. Therefore, the claim language requires these limitations. In order to continue with the examination, the claims will be interpreted as disclosed above. Appropriate correction is required.

Further, the claims recites that the actuator is “mechanically linkage”. However, the specification fails to provide any support for any linkages. Therefore, the term is indefinite.

Second, claims 21 and 22 are not generic claims. At the instant, the claims require a biasing device, which is an essential element to move the latch member to the non-latching position.

The applicant discloses 2 embodiments in the application, figures 1-8 and figures 9-16. At the instant, the applicant shows that the embodiment shown in figures 9-16 works without a biasing device. Therefore, the limitations presented in claims 34-41 will be withdrawn from consideration since the limitations on those claims are not capable to work with the embodiment claimed in claims 21 and 22. Further, the current specification fails to describe how the spring 23 works with the device shown with the rack and gear. IMMEDIATE cancellation of the claims is required.

Allowable Subject Matter

4. **Claims 21, 22 and 42 would be allowable** if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action (**as interpreted, see 112 2nd paragraph section above**).

Response to Arguments

5. Applicant's arguments filed on June 16, 2009 have been fully considered but they are not persuasive.

At the instant, the current amendment to the claims still not overcomes some of the 112 issues presented before. Also, the current amendment presents additional issues.

As to claims 34-41, the position is maintained. The argument "a person of ordinary skill in the art would understand" is not an argument. The current specification does not shows or describe the device having the rack and gear with the biasing spring. Therefore, immediate cancellation is required.

The applicant is required to clearly claim the invention, by adding the essential structure, and cancelling claims 34-41. Since the application has been twice rejected, the applicant can also file a pre appeal request or just simply file an appeal brief on the matter.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like

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assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

October 11, 2009